

Premise Health[™]
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Submitted electronically to:
Notice.comments@irs.counsel.treas.gov

CC: PA: LPD: PR (Notice 2015-16)
Room 5203
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington, DC 20044

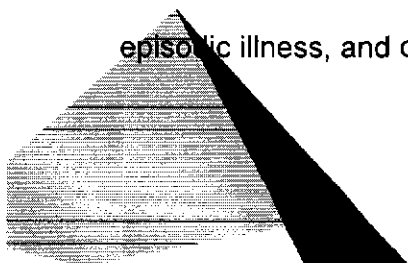
Re: Notice 2015-16

Dear Ladies and Gentlemen:

Premise Health welcomes the opportunity to comment on Notice 2015-16 concerning certain aspects of the implementation of the excise tax on high cost employer-sponsored health coverage. We appreciate the initial efforts of the Department of Treasury (Treasury) and Internal Revenue Service (IRS) relating to the potential approaches described in Notice 2015-16 with respect to imposition of the excise tax under section 4980I of the Internal Revenue Code (Code).

Premise Health's Interest in the Affordable Care Act

Premise Health is a leading worksite health company dedicated to improving the quality and cost of employee healthcare. With more than 40 years of experience, Premise Health manages more than 500 worksite-based health and wellness centers across the country. The company serves more than 200 of the nation's leading employers, including a significant number of the Fortune 1000. Premise Health provides organizations and their employees with a range of on-site health services, including primary care, acute episodic illness, and occupational medicine.



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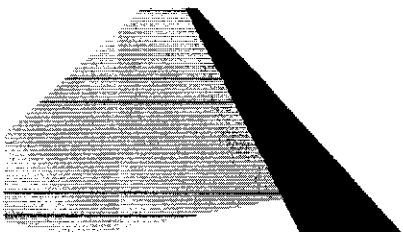


Code Section 4980I and the Treatment of On-site Medical Clinics

Code section 4980I generally includes on-site medical clinics within the definition of applicable coverage for purposes of the excise tax on high cost employer-sponsored health coverage. Treasury and IRS indicate they anticipate promulgating regulations that exclude on-site medical clinics from the definition of applicable coverage under certain circumstances, most notably, when such clinics offer only de minimis medical care to employees. Treasury and IRS note that such an exception would be consistent with the technical explanation of the law prepared by the Joint Committee on Taxation. In addition, Treasury and IRS state that such an interpretation has the added benefit of avoiding the burdensome calculation related to determining the incremental additional cost of such coverage.

As further support for an exclusion of certain benefits offered to employees at on-site medical clinics, Treasury and IRS note that regulations promulgated under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provide a useful comparison. Specifically, Treasury and IRS note that health care provided to employees free of charge at on-site facilities is not considered to constitute a group health plan for purpose of COBRA coverage if certain requirements relating to the nature of the care (primarily first aid) and the timing of the illness or injury (during work hours) are satisfied.

Premise Health is pleased to respond to the request for comments relating to how Treasury and IRS should treat medical care in the case of on-site medical clinics.



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On-site Medical Clinics Provide Foundational Support for True Health Care Reform

Since the passage of the Affordable Care Act, great attention has been focused on how to expand access to health care to all Americans, while re-engineering the health care delivery system to provide consistent quality care at the lowest cost. Mindful of these goals, an increasing number of employers have turned to on-site clinics to improve their employees' access to health care, productivity and health outcomes, in addition to supporting the traditional occupational health services designed to manage work-site illnesses and injuries. Since the enactment of the ACA, employers have adopted on-site medical clinics at an accelerated pace, reflecting not only a concerted effort to proactively respond to the relentless increase in health care costs, but also a shift in focus to health care quality, efficacy, and prevention.

The expanded repertoire of non-occupational services offered by today's on-site clinics provide a vehicle for driving the delivery of effective health care. Employers increasingly understand that to achieve reduced costs and absenteeism, improved productivity, and a higher quality of care, requires a shift in emphasis from the piecemeal, highly-specialized care of the past, to a renewed focus on collaborative, primary care and prevention.

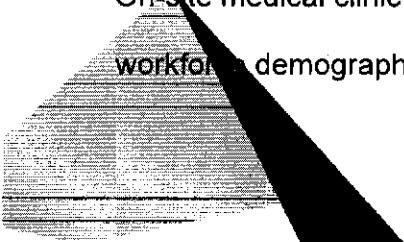
Modern worksite clinics offer a broad array of service options, affording employers the opportunity to tailor programs to the unique needs of their workforce.

On-site medical clinic services can vary widely depending upon industry characteristics, workforce demographics and geographic considerations. Many employers opt for on-site

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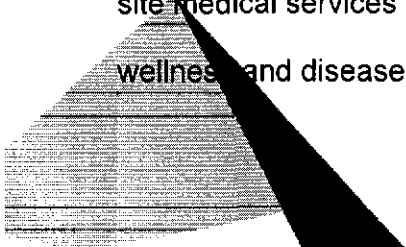




patient-centered medical homes (PCMH), which is a centralized care delivery model whereby patient treatment is organized at the on-site facility to enhance the patient experience, generally by ensuring improved care coordination, patient (and, when appropriate, family) engagement, and accessibility to primary and specialty care.

In addition to sites designed around the PCMH model, worksite clinics also offer services on a selective basis, including traditional occupational health, primary care, health promotion and prevention, and select specialty care services such as pharmacy, physical therapy, laboratory, dental, vision, and radiology services. Wellness and prevention programs offered at on-site medical clinics today often go beyond the mere promotion of health awareness, providing, for example, medical care such as physical examinations, biometric screenings, flu shots, nutrition coaching and counseling, disease management, and education.

Consistent with the goals of the ACA, delivery of these services at on-site clinics assist employers in reducing the cost of care and improving both the quality and access to such care. The legislative history of the ACA is replete with references to the importance of health promotion and disease prevention. Excluding medical care in the case of on-site medical clinics from the definition of applicable coverage for purposes of calculating the 4980I excise tax will incentivize employers to continue to utilize these transformative vehicles which are essential in today's health care delivery system. In contradistinction, casting a wide net and including the panoply of services provided by on-site medical services will have the reverse effect on employers' efforts to promote wellness and disease prevention.





Comments Relating to the Treatment of On-site Medical Clinics

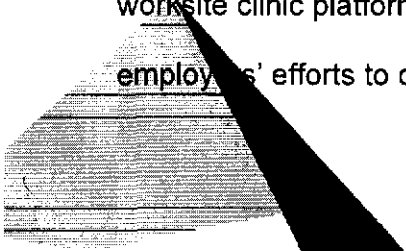
Premise Health agrees with Treasury and IRS that, for purposes of assessing the excise tax under Code section 4980I, calculating the incremental additional cost of coverage provided by on-site medical clinics is a burden best excluded from the determination of the aggregate cost of applicable employer-sponsored coverage. The exponential growth of worksite medical facilities reflects the expanded and pivotal role clinics currently play in employer based health and welfare benefits programs. Requiring forward thinking employers who adopt on-site medical facilities to cost out each of the services provided at their clinics would represent a giant step backwards to the outdated, fragmented approach to health care delivery. Sophisticated sponsors of health and welfare benefits programs understand that the health care cost curve can be bent most effectively by tapping into the savings of coordinated care, which requires integrated eligibility, utilization, and digital technologies. Treasury and IRS are correct to avoid the perils of fragmentation inherent in requiring employers to undertake the burdensome task of calculating the incremental additional cost of coverage provided via on-site medical clinics.

It is no coincidence that there has been widespread adoption and development of on-site medical clinics since the passage of the ACA. The ACA desire to bend the health care cost curve, as well as its focus on patient centered care, boost the merits of the worksite clinic platform. On-site medical clinics are a critical component in many employers' efforts to control cost and improve health outcomes for their employees; in

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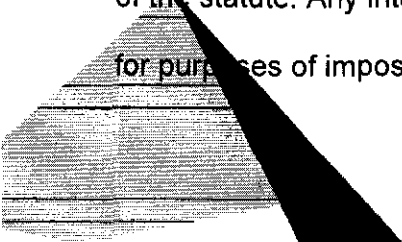




many ways, on-site clinics are the first line of defense for employers in the battle against rising health care costs and the diminished productivity associated with poor health outcomes.

While the number of Americans without health care continues to decline, implementation challenges have slowed the progress of realizing the full goals of national health care reform. Many states continue to struggle with Medicaid expansion, all stakeholders (employers, providers and patients) are grappling with high health care costs, and pending litigation threatens the viability of subsidies available through marketplace insurance exchanges. Employer-sponsored health and welfare benefits plans and programs historically have been the vehicle by which the majority of Americans have had access to health care. Inclusion of on-site medical clinics in the value of applicable employer-sponsored coverage for purposes of calculating the Code section 4980I excise tax significantly would undermine the employer sponsored health care delivery system.

Given the ongoing questions surrounding key provisions of health care reform and the growing demands placed on employers to comply with the complex rules and regulations of the statute, the employer-sponsored model – which is the bedrock foundation for the American health care delivery system – must be supported vigorously if the goals of health care reform are to be achieved. Maintaining the stability of the employer-sponsored market is critical to bending the health care cost curve, the polestar of the statute. Any interpretation of the scope of applicable employer-sponsored coverage for purposes of imposing the 4980I excise tax should be mindful not to exacerbate the





strains presently placed on the employer-sponsored model. Failure to heed this warning likely will lead to significant reductions in health care services provided by employer-sponsored plans and programs, and, in some instances, wholesale abandonment of such plans and programs.

For these reasons, and as a threshold matter, Premise Health respectfully requests that Treasury and IRS exercise their discretionary authority to provide an enforcement delay in implementing the imposition of the excise tax until the year 2020.¹ A delay will allow additional time for all agencies with interpretive and enforcement authority relating to the regulation of on-site medical clinics to analyze the empirical data underlying the arguments referenced above and below. Most notably, a delay in enforcement most assuredly also will delay the steady march towards benefits cutbacks, many of which already are underway and, without a course correction, more will follow.

Premise Health also respectfully recommends Treasury and IRS ultimately promulgate rules reflecting the dynamic referenced above and, for purposes of the excise tax under Code section 4980I, treat any medical services provided by on-site medical clinics to be "de minimis medical care," which meets the standard set forth in the statute. In doing so, Treasury and IRS not only will provide much needed support to the employer-sponsored health care model which is integral to the delivery of health care to millions of

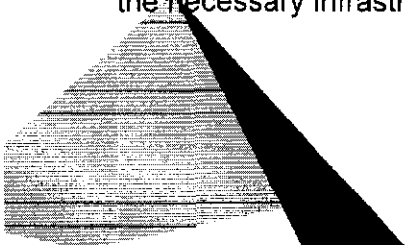
¹ Treasury and IRS previously have exercised discretion to grant administrative flexibility with respect to certain provisions under the ACA. See e.g., the delay relating to imposition of the employer mandate penalty, the delay relating to the imposition of the penalty for failure to transition to the SHOP exchanges, and the delay relating to compliance with the statute's W-2 reporting requirements.



Americans, but also preserve employers' ability to use one of the most effective tools in their toolbox for cutting the cost of care, while improving both the quality and access to such care.

If, however, Treasury and IRS determine a standard is necessary which attributes some portion of the costs of on-site medical care to the costs of applicable employer-sponsored coverage, Premise Health respectfully requests Treasury and IRS consider a standard which is based on a specific dollar limit, denominated as a percentage of the applicable dollar limits under Code section 4980I(b)(3)(C) (\$10,200 per employee for self-only coverage and \$27,500 per employee for other than self-only coverage), including adjustments due to cost of living increases and other adjustments required by the statute.

Premise Health supports the broadest interpretation of the nature and scope of worksite clinic services excludable from applicable coverage. Nonetheless, reliance upon a benefit specific safe harbor approach – one in which certain on-site medical clinic services are excluded consistent with either the group health plan exclusion criteria described in the COBRA regulations, or the “significant benefits” test criteria found in the rules relating to HSA eligibility and the Department of Labor “excepted benefits” guidance regarding employee assistance programs – would unnecessarily undermine the significant progress made by employers who have embraced worksite medical clinics. An ever increasing number of employers have established on-site clinics as the focal point for their health and welfare benefits programs, committing significant resources to build the necessary infrastructure and processes to optimize health care delivery to their



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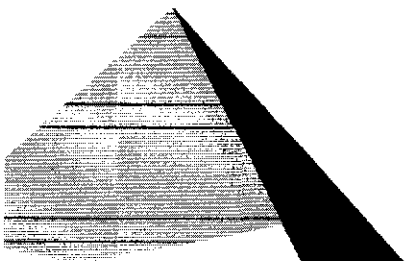
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employees. Employers are willing to make such investments because on-site medical clinics have proven to be transformative vehicles for true health care reform.

Treasury and IRS should facilitate the continued expansion of on-site medical clinics by fashioning a rule regarding the treatment of medical care in the case of clinics that reflects the meaningful role clinics play in reducing "excess benefits," as contemplated in Code section 4980I(b). A standard which relies upon a specified dollar limit, denominated as a percentage of the applicable dollar limits under Code section 4980I(b)(3)(C) (\$10,200 per employee for self-only coverage and \$27,500 per employee for other than self-only coverage), including adjustments due to cost of living increases and other adjustments required by the statute, will accomplish that goal.

Premise Health recommends 10% as the appropriate percentage of the two annual applicable dollar limits for the cost of on-site medical clinic services that may be excluded as "de minimis medical care" consistent with the standard set forth in the statute. Adopting such a standard has the dual benefit of easing the administrative burden associated with calculating the incremental cost of coverage provided via on-site medical clinics, and providing certainty for employers wishing to maintain these critical components in the ongoing battle to achieve true health care reform.



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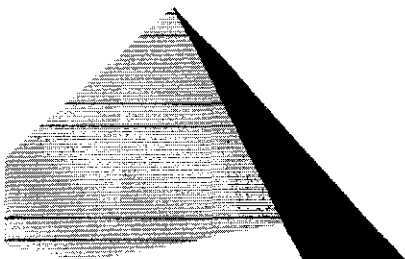


Thank you again for your initial efforts regarding guidance relating to the imposition of the 4980I excise tax, and for your consideration of these comments. As you move forward, please do not hesitate to contact me with any follow-on questions regarding your important work in this area.

Sincerely,

A handwritten signature in black ink, appearing to read "ESC", is positioned above the printed name.

Stuart Clark
Chief Executive Officer
Premise Health



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